

FILED  
JAMES BOHNI  
CLERK

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JAN -5 PM 1:29  
U.S. DISTRICT COURT  
SOUTHERN DIST OHIO  
WEST DIV CINCINNATI

DAVID BILLUPS,  
PLAINTIFF,

-vs-

JAMES McWEENEY, ET AL.,  
DEFENDANTS. /

CASE NO. C-1-01-377  
JUDGE SPIEGEL  
MAGISTRATE JUDGE HOGAN

PLAINTIFF'S TRAVERSE IN OPPOSITION TO DEFENDANTS'  
REPLY TO PLAINTIFF'S OPPOSITION TO  
DEFENDANT OBREGON'S MOTION FOR SUMMARY JUDGMENT

POINT I

Defendants state on Page 1 Plaintiff "... would not be exposed to a smoking cellmate. Furthermore, all cells at SOCF contain a window, which reduce the levels of smoke."(sic)

Defendants fail to point out the following facts:

1. The cells at SOCF are approximately 6' apart or the width of a cinderblock.
2. All windows are closed during cold weather, winter months, and inclement weather, i.e., rain.
3. There is no ventilation in the cells.

As thus, with over 90% of the 80 people in the cellblock whom smoke, it is as if Plaintiff did have a cellmate whom smokes given the fact of the close proximity of the cells and no ventilation.

POINT II

As Plaintiff submitted with his Opposition Motion as Exhibit "A", Plaintiff did not refuse his May 2001 medical round trip, only asked it be rescheduled due to an attorney phone conference.

CONCLUSIONS

For the foregoing reasons, Plaintiff asserts Defendant Obregon's Summary Judgment Motion should be denied.

Respectfully Submitted,

/s/ David Billups  
David Billups  
P.O. Box 7010-211903  
Chillicothe, Ohio  
45601

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing has been served to Counsel for Defendants at: Marianne Pressman#0059512, 1600 Carew Tower, 441 Vine Street, Cincinnati, Ohio 45202 this 26th day of December 2003 by regular U.S. Mail.

/s/ David Billups  
David Billups